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TAGS: UN, TSPA
SUBJECT: OUTER SPACE LEGAL SUBCOMMITTEE: MOON TREATY

1. SUMMARY: IN CONSIDERING DRAFT MOON TREATY LEGAL SUB-COMMITTEE FOCUSSED ALMOST EXCLUSIVELY ON QUESTION OF NATURAL RESOURCES AND IN ELEVEN FORMAL AND INFORMAL MEET-INGS DELEGATIONS DRAFTED TWO HEAVILY BRACKETED ARTICLES ON THIS SUBJECT (COPIES POUCHED IO/UNP). SIGNIFICANT DISAGREEMENT PERSISTED ON TIMING OF ESTABLISHING INTER-NATIONAL REGIME TO GOVERN EXPLOITATION OF MOON'S RESOURCES AND ON INTERPRETATION OF FREQUENTLY STATED PRINCIPLE THAT RESOURCES OF MOON ARE COMMON HERITAGE OF MANKIND. INDIA WAS MOST ADAMANT ADVOCATE OF VIEW THAT EXPLOITATION OF MOON'S RESOURCES COULD TAKE PLACE ONLY UNDER INTERNATIONAL REGIME AND FOR BENEFIT OF ALL STATES. END SUMMARY.

2. DURING 14TH SESSION OF LEGAL SUBCOMMITTEE NONE OF THE THREE OUTSTANDING ISSUES CONCERNING SCOPE, PRIOR NOTIFICATION, AND NATURAL RESOURCES WERE RESOLVED, AND ONLY THIRD ISSUE WAS DISCUSSED IN DEPTH. REGARDING SCOPE, CHILE, JAPAN, SWEDEN AND VENEZUELA SPOKE IN PLENARY MEET-INGS IN FAVOR OF INCLUDING "OTHER CELESTIAL BODIES", AND NO COUNTRIES OPPOSED SUCH INCLUSION. IT SHOULD ALSO BE

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NOTED THAT SOVDEL IN BILATERAL CONSULTATION WITH USDEL AT START OF SESSION INDICATED THAT IT COULD ACCEPT INCLUSION OF CELESTIAL BODIES IN DRAFT TREATY. JAPAN AND VENEZUELA BOTH SPOKE IN FAVOR OF PRIOR NOTIFICATION OF ACTIVITIES IN ORDER TO PREVENT DISRUPTION OR CONTAMINATION OF MOON'S ENVIRONMENT. IN INFORMAL DISCUSSIONS, SOVDEL INDICATED IT MAINTAINED ITS POSITION OF BEING UNABLE TO ACCEPT REQUIREMENT FOR ADVANCE NOTIFICATION AND SAID THEY REGARDED "SOME DELEGATIONS" AS UNNECESSARILY DIFFICULT IN CONTINUING TO INSIST ON IT.

3. IN INTENSIVE DISCUSSION OF NATURAL RESOURCES QUESTION BOTH IN PLENARY SPEECHES AND WORKING GROUPS, MAJOR OBSTACLES STEMMED FROM VARYING POSITIONS ON QUESTION WHETHER NATURAL RESOURCES OF MOON, EVEN AFTER EXTRACTION, ARE COMMON HERITAGE OF MANKIND, AND HENCE WHETHER THE COUNTRY WHICH BROUGHT THEM BACK TO EARTH WOULD HAVE ANY PRIORITY RIGHTS. INDIA, EGYPT, AND ARGENTINA WERE PRIMARY ADVOCATES OF POSITION THAT NO ADVANTAGE SHOULD BE GIVEN TO A SPACE POWER JUST BECAUSE IT HAD MADE THE EFFORT AND INVESTMENT TO GO TO THE MOON.

4. ADDITIONAL QUESTION DISCUSSED CONCERNED POSSIBILITY OF ESTABLISHING AN INTERNATIONAL REGIME TO GOVERN THE EXPLOITATION OF THE MOON'S RESOURCES, AND WHETHER SUCH REGIME SHOULD GOVERN EXPLORATION AS WELL AS EXPLOITATION, THE TIMING AND REQUIREMENTS FOR ESTABLISHING AN INTERNATIONAL REGIME, AND AGAIN THE EXTENT TO WHICH DEVELOPING COUNTRIES AND THOSE WHICH CARRY OUT THE EXPLORATION AND EXPLOITATION SHOULD RECEIVE SPECIAL CONSIDERATION IN MANAGING AND BENEFITING FROM EXPLOITATION OF THOSE RESOURCES.

5. INDIA WAS THE STRONGEST ADVOCATE OF THE PRINCIPLE THAT OWNERSHIP OF THE MOON'S RESOURCES SHOULD NOT RESIDE IN ANY COUNTRY, EITHER FOR MATERIALS RETURNED TO EARTH FOR SCIENTIFIC EXPLORATION OR FOR EXPLOITATION. IT RECOGNIZED, HOWEVER, THE NEED FOR THOSE COUNTRIES WHICH CONDUCTED SCIENTIFIC INVESTIGATION TO HAVE EFFECTIVE CONTROL OVER SUCH MATERIALS, INCLUDING THOSE FOR PRELIMINARY INVESTIGATION OF WHETHER COMMERCIAL EXPLOITATION IS FEASIBLE. INDIAN DEL FURTHER MAINTAINED THAT ABOVE

CONCEPT WAS IMPLIED IN OUTER SPACE TREATY, AND ARGUED THAT EARLIER DRAFTS ON MOON TREATY DID NOT GIVE OWNERSHIP OF MATERIALS BROUGHT BACK FOR SCIENTIFIC PURPOSES TO ANY COUNTRY. INDIAN DEL AT SEVERAL POINTS STATED THAT SPACE POWERS UNDERTOOK THEIR PROGRAMS UNDER THEIR OWN FREE WILL AND HENCE THE INTERNATIONAL COMMUNITY OWED THEM NO PARTICULAR ADVANTAGE. IN THIS REGARD, SOVIET DEL POINTED OUT THAT IF RESOURCES EVEN AFTER EXTRACTION BELONG TO ALL MANKIND, THEN LOGIC WOULD DICTATE THAT THEY WOULD BELONG TO ALL STATES, INCLUDING EVEN THOSE NOT PARTY TO THE TREATY. THAT NON-PARTY STATES WOULD HAVE EQUAL VOICE IN ALL ASPECTS GOVERNING EXPLOITATION OF THOSE RESOURCES, AND THAT THE STATE INVESTING GREAT EFFORTS ANS SUMS WOULD HAVE NO GREATER CLAIMS TO THE RESOURCES THAN WOULD ANY OTHER STATE. THIS, HE STATED WAS CLEARLY UNACCEPTABLE.

6. IN DRAFT TREATY TEXT, INDIAN DEL INSISTED THAT EITHER THERE SHOULD BE A SEPARATE PARAGRAPH SPECIFICALLY STATING THAT THE MOON AND ITS NATURAL RESOURCES ARE THE COMMON HERITAGE OF MANKIND, OR THAT THIS CONCEPT SHOULD BE INCLUDED IN EACH PARAGRAPH.

7. IN AN ANONYMOUS DRAFT THE FRENCH DEL INSERTED A PROVISION WHICH STATED THAT EFFORTS OF SPACE POWERS AS WELL AS NEED OF DEVELOPING COUNTRIES SHOULD BE CONSIDERED IN FORMULATING FUTURE DIVISION OF BENEFITS. INDIA OPPOSED, BUT USDEL REQUESTED PROVISION BE RETAINED FOR THE TIME BEING, EVEN THOUGH SUBSTANCE OF THAT POSITION WAS OF COURSE ASSUMED EVEN WITHOUT EXPRESS PROVISION.

8. THE PRINCIPLE OF ESTABLISHING AN INTERNATIONAL REGIME TO GOVERN THE EXPLOITATION OF THE MOON'S RESOURCES WAS SUPPORTED BY PRACTICALLY EVERY DELEGATION AND CONTESTED BY NONE. HOWEVER, THERE WAS CONSIDERABLE DISCUSSION AS TO THE TIMING OF THE ESTABLISHMENT OF SUCH A REGIME. EGYPT, APPARENTLY FEARING THAT THE SPACE POWERS WOULD BLOCK OR DELAY ITS ESTABLISHMENT, ADVOCATED A DEADLINE FOR SETTING UP THE REGIME (FOR EXAMPLE, WITHIN TEN YEARS) AND MANDATORY PARTICIPATION BY ALL PARTIES TO THE TREATY. SOVDEL, SUPPORTED BY GDR, CZECHOSLOVAKIA, MONGOLIA, ROMANIA, POLAND, AND BELGIUM, ARGUED THAT A

REGIME SHOULD BE SET UP ONLY WHEN EXPLOITATION OF THE RESOURCES BECAME FEASIBLE, INDICATING THAT THIS WAS NOT FOR THE NEAR FUTURE. USDEL ALSO ARGUED THAT IT WAS IMPOSSIBLE TO COMPEL ANY SOVEREIGN STATE TO ATTEND ANY CONFERENCE REGARDLESS OF WHAT WAS SAID HERE, AND HENCE SUCH A PROVISION SEEMED PETTY AND OBJECTIONABLE. ANOTHER DIVERGENCE SURFACED AS TO WHETHER ANY EXPLOITATION COULD TAKE PLACE UNTIL A REGIME HAD BEEN ESTABLISHED. SEVERAL DELS, AGAIN HEADED BY INDIA, WANTED TO PROHIBIT ANY EXPLOITATION UNTIL AN INTERNATIONAL REGIME HAD BEEN ESTABLISHED. BRAZIL WENT FURTHER AND ASSERTED THAT EXPLOITATION SHOULD BE CARRIED OUT ONLY BY THE INTERNATIONAL REGIME ITSELF.

9. THROUGHOUT THE DISCUSSIONS AND DRAFTING OF TWO ARTICLES N NATURAL RESOURCES USDEL SUPPORTED, AND WHERE NECESSARY PROPOSED, LANGUAGE THAT WOULD PROVIDE NECESSARY FLEXIBILITY, FRAMEWORK, AND ENCOURAGEMENT OT PROMOTE FUTURE DEVELOPMENT OF RESOURCES OF MOON AND OTHER CELESTIAL BODIES. RIGID POSITION OF INDIA, SUPPORTED ON MANY ASPECTS BY EGYPT AND BRAZIL, EFFECTIVELY PREVENTED REACHING ANY COMPROMISE ON NATURAL RESOURCE QUESTION. SOVDEL, WHICH WAS FREQUENTLY ON OTHER SIDE OF ARGUMENTS WITH INDIA, IS NOW LESS OPTIMISTIC ABOUT PROSPECTS FOR COMPLETING MOON TREATY IN NEAR FUTURE, AND IN ANY CASE BEFORE LAW OF THE SEA RESOURCES FORMULA IS WORKED OUT.
SCHAUFELE